

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

Pool
R.I.
31351

FILE:

B-218611.2

DATE: June 4, 1985**MATTER OF:**Gulf & Western Healthcare,
Inc.--Reconsideration**DIGEST:**

GAO affirms dismissal of protest that failed to state a basis for protest, where the request for reconsideration demonstrates that initial protest was untimely.

Gulf & Western Healthcare, Inc. (Gulf), requests reconsideration of our letter dated May 8, 1985, in which we dismissed its protest in connection with request for proposals (RFP) No. DADA16-85-R-0002 issued by the Department of the Army. We dismissed the protest under section 21.1(f) of our Bid Protest Regulations (4 C.F.R. part 21 (1985)) for failing to set forth a detailed statement of the legal and factual protest grounds and include copies of relevant documents.

Gulf's submission of the protest details within 10 working days of our dismissal notice is, in essence, a timely request for reconsideration of our decision. 4 C.F.R. § 21.12(b) (1985). Compare Alchemy, Inc., B-208982.2, July 25, 1983, 83-2 C.P.D. ¶ 120. However, Gulf's detailed request for reconsideration presents information demonstrating that its initial protest was untimely. Therefore, we are affirming our prior action dismissing this protest.

Gulf's detailed request for reconsideration shows that its best and final offer to provide hospital beds for the Tripler Army Medical Center in Hawaii was determined to be technically unacceptable. The Army advised Gulf of this determination by letter dated April 5, 1985, and while we do not know the exact date the protester received the Army's letter, it is reasonable to assume that it was received within 1 calendar week of its issuance. Marker-Modell Associates--Request for Reconsideration, B-215049.2, July 26, 1984, 84-2 CPD ¶ 117; Alchemy, Inc., B-208982.2, supra. As a result, allowing 1 week for delivery of the

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Army's letter of April 5, Gulf's protest to this Office on May 8 was untimely filed pursuant to section 21.2(a)(2) (1985) of our Bid Protest Regulations, which requires that a protest be filed within 10 working days after the basis of protest is known or should have been known. In addition, Gulf's contention that certain of the RFP's specifications were overly restrictive is also untimely under section 21.2(b)(1) of our Regulations, which stipulates that protests of alleged deficiencies that are apparent in a solicitation must be filed before the closing date for receipt of initial proposals.

The protest is dismissed.

for *Seymour Spivak*
Harry R. Van Cleve
General Counsel